S.B.Criminal Revision Petition No.545/2006

Arseeda vs. State of Rajasthan & Anr.

13.9.2007

HON'BLE MR.JUSTICE G.S.SARRAF

Mr. N.A.Naqvi for the petitioner.
Mr. Ashwani Kumar Sharma, P.P.
Mr. V.S.Chauhan for respondent No.2

Reportable

This criminal revision petition of the complainant petitioner is directed against that part of the order dated 20.4.2006 passed by Additional District and Sessions Judge (Fast Track) No.4, Bharatpur in sessions case No.1/2006 whereby his application filed under Section 311 Cr.P.C. has been dismissed.

The short controversy involved in this revision petition is that whether in a trial before the Sessions Judge the complainant has any locus standi to file an application under Section 311 Cr.P.C.

Heard learned counsel for the petitioner, learned Public Prosecutor and learned counsel for the respondent No.2.

Under Section 225 Cr.P.C. in every trial before a court of Sessions, the prosecution shall be conducted by

a Public Prosecutor. However, under Section 301 (2) Cr.P.C. if any private person instructs a pleader to prosecute any person in any Court, the public Prosecutor or Assistant Public Prosecutor in charge of the case shall conduct the prosecution, and the pleader so instructed shall act under the directions of the Public Prosecutor or Assistant Public Prosecutor and may, with the permission of the Court, submit written arguments after the evidence is closed in the case. Thus, Section 301(2) Cr.P.C. does not wipe off a private person from the proceedings but the role assigned to the private person is very limited and he has to act under the directions of the Public Prosecutor or Assistant Public Prosecutor and he may submit written arguments but not without the permission of the court.

The criminal law is not to be used as an instrument of wreaking private vengeance by an aggrieved party against the person who, according to that party, has caused injury to it. Barring a few exceptions, in criminal matters, the party who is treated as aggrieved party is the State, which is the custodian of the social interests of the community at large and so it is for the State to take all the steps necessary for bringing the person who has acted against the social interests of the community to book.

It is the Public Prosecutor who is the in-charge of the criminal case and the private person cannot be permitted to assess merits of the case over and above the assessment of the Public Prosecutor.

In the above view of the matter, I have come to the conclusion that in a trial before the Sessions Judge a private person has no locus standi to file an application under Section 311 Cr.P.C.

For the reasons stated hereinabove, this revision petition fails and it stands dismissed accordingly.

(G.S.Sarraf),J.

bairwa